
Appeal Decision

Site visit made on 7 June 2017

by Roy Merrett BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 22 June 2017

Appeal Ref: APP/L5240/W/16/3165896

1 Virginia Road, Thornton Heath CR7 8EL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Tushar Patel against the decision of the Council of the London Borough of Croydon.
 - The application Ref 16/03214/P, dated 23 June 2016, was refused by notice dated 19 October 2016.
 - The development proposed is the erection of 2 two bedroom houses at rear and formation of access road and provision of associated parking.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 2 two bedroom houses at rear and formation of access road and provision of associated parking at 1 Virginia Road, Thornton Heath CR7 8EL in accordance with the terms of the application Ref 16/03214/P, dated 23 June 2016 and subject to the conditions below.

Procedural Matter

2. I have taken the description of development from the Council's decision notice as reflected on the appeal form.

Main Issues

3. The main issues are the effect of the development on i) the character and appearance of the surrounding area and ii) the living conditions of neighbouring residents with particular regard to privacy.

Reasons

Character and Appearance

4. The appeal site is at the end of a spacious suburban residential street, of mainly two storey, semi-detached dwellings. It was apparent from the information before me and my visit that the dwellings along Virginia Road, and the adjacent street, St Oswalds Road, predominantly benefit from long back to back undeveloped gardens.
 5. However, the rear gardens of these properties are generally well screened from the public domain due to the presence of frontage buildings. In addition, immediately to the rear of the appeal site is St Oswald's Parish Hall, a building which is significantly set back from the highway and therefore anomalous to
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the prevailing pattern of deep undeveloped rear gardens. Furthermore, despite views into the open rear of the site via gaps between built development around the junction of Virginia Road and Green Lane, such views are fleeting in nature as the site is quickly passed.

6. For the above reasons, the spacious nature of rear garden land is not a strongly discernible characteristic within this part of the estate. Therefore, whilst the proposal would naturally lead to a reduction in the scale of the donor plot, albeit that a reasonable amount of rear garden space to serve both the donor and proposed properties would be retained, this would not in itself be harmful to character and appearance.
7. The proposed development would be limited to two storeys in height and would therefore be consistent with the height of surrounding dwellings. It would incorporate sufficient garden depth to the rear to allow for practical use. Both dwellings would be offset from the respective side boundaries of the plot and significantly separated from the rear of the nearest dwellings on Green Lane. The parking forecourt area to the front of the dwellings would accommodate only a small number of vehicles and with the adjacent turning area, would be substantially open, and in any event significantly screened from view. The proposal would therefore sit comfortably in relation to its surroundings and would not appear dominant or cramped in relation to any existing features.
8. I conclude that the development would not therefore result in harm to the character and appearance of the surrounding area. Accordingly I find no conflict with Policies 3.5, 7.4 and 7.6 of the London Plan 2016 (LP); Policies SP4.1 and SP4.2 of the Croydon Local Plan Strategic Policies 2013 (SP) and Saved Policies UD2, UD3, UD13, UD14, H2 and H5 of the Croydon Replacement Unitary Development Plan 2006 (UDP) which seek to secure high quality design, ensuring that backland development respects the character and distinctive qualities of the area and the height and proportions of surrounding buildings.

Living Conditions

9. The Council has raised concern that there would be mutual overlooking and therefore loss of privacy for residents due to the separation between the proposed dwellings and the rear elevation of Nos 1 and 3 Virginia Road being limited to 9.4 metres and 10 metres respectively. However from the information before and my visit, I am not convinced that this assessment is accurate, the scale of the plot and the amount of separation available appearing to be significantly greater than this.
10. The orientation and separation of the main elevations of the proposed dwellings and 1 and 3 Virginia Road would be similar to that which currently exists between the front elevations of dwellings situated opposite one another further along Virginia Road. Notwithstanding the spacious character of the area, the proposal would not, in itself, constitute an unusually tight relationship between the main elevations of dwellings. In addition the rear garden area of No 3 would not be directly overlooked by the development. Drawing these considerations together, in my view, this would be sufficient to ensure that harmful overlooking and loss of privacy would be avoided.
11. I conclude that the development would not result in harm to the living conditions of neighbouring residents with particular regard to privacy.

Accordingly there would be no conflict with Policy 7.6 of the LP and Saved Policy UD8 of the UDP which seek development to safeguard the privacy and amenity of the occupiers of surrounding buildings.

Other Matters

12. Several objections have been raised against the proposed development by third parties. With regard to highway and pedestrian safety, the proposed development would lead to a small increase in vehicle movements to and from the site. Of this small quantity of additional traffic, vehicles would be likely to be slow moving due to the short length and limited width of the access road and it would be reasonable to expect drivers and pedestrians respectively to exercise appropriate caution in approaching the driveway junction and crossing the driveway. Therefore, notwithstanding the relative proximity of the road junction between Virginia Road and Green Lane, the proposal would be unlikely to result in harm to highway and pedestrian safety.
13. No substantiated evidence has been provided that highway safety problems would arise. Highway concerns were not a ground for the Council refusing planning permission and I have not been made aware that the Council's highway officers have objected to the scheme on this basis. Drawing the aforementioned considerations together I have no reason to take a different view to the Council in this regard.
14. Notwithstanding comments expressed regarding the presence of an underground stream, I note the Council confirm that the site is not within an area at risk from flooding. Furthermore I have not been provided with evidence to substantiate concerns expressed regarding potential flood risk to the surrounding area and the stability of land. A condition can be imposed requiring suitable drainage measures to be put in place.
15. Whilst inevitably there would be some noise disturbance caused to residents during the construction period, this would be a temporary impact and could be mitigated to a degree through the use of a suitable construction management planning condition. In terms of the operation of the site, whilst there would be some additional activity, the proposed modest development would be compatible with the established residential use of the surrounding area and would not be expected to cause undue noise disturbance. It is likely that future occupiers would need to move and retrieve bins to and from a location on Virginia Road to ensure rubbish and recycling collections. However I am not persuaded that this would lead to any significant inconvenience for residents.
16. In terms of the amenities of nearby residents I am satisfied that the separation and orientation of the proposed dwellings would avoid harm to privacy and outlook. Whilst the development would result in a degree of overshadowing of adjacent rear garden areas at certain times of the day, the plots in question are spacious and would not therefore be unduly harmed in this regard. It may be necessary to remove or prune some trees on the site, in order to facilitate the proposal. However, it was apparent from my visit that the specimens in question are not of significant visual value in the street scene.
17. Concern has been expressed that the development would make it easier to gain unauthorised access to adjacent properties resulting in increased potential for crime or anti-social behaviour. It seems to me, however, that the development would lead to increased natural surveillance over and activity in relation to the

appeal site. I am not therefore persuaded that this would be a compelling ground on which to refuse planning permission.

18. I have considered the argument that the grant of planning permission would set a precedent for other similar developments. However each application and appeal must be determined on its own individual merits and a generalised concern of this nature would not in itself justify withholding planning permission in this case. Concerns have also been expressed with regard to loss of property value that may be experienced. I am, however, unable to attach any significant weight to this matter as it is not the purpose of the planning system to arbitrate over competing private interests. Although concern has been expressed with regard to the accuracy of part of the drawings, I am satisfied from the information before me and my visit, that I have been able to sufficiently interpret the proposed development.

Conditions

19. I have considered the conditions suggested by the Council. Conditions specifying the plans, details of the external materials, landscaping and finished floor levels are needed to safeguard the character and appearance of the area. The provision of cycle and bin storage is required in the interests of the proper planning of the area.
20. Conditions requiring the submission of a construction management plan and the provision and retention of the access road and parking space are required in the interests of road safety and the living conditions of residents. A condition to assess the risk and remediate any contamination present on the site is necessary in the interests of environmental protection and the living conditions of future occupiers. A condition requiring drainage details is required to ensure the satisfactory drainage of the site.
21. The Government's Planning Practice Guidance states that conditions restricting the future use of permitted development rights will rarely pass the test of necessity and should only be used in exceptional circumstances. I am not satisfied that the exceptional circumstances justifying such a condition have been adequately demonstrated in this case.
22. As there would be adequate separation with adjacent properties, I consider that a condition requiring the retention of obscure glazing in windows to be unjustified. I have split up and made some minor alterations to the wording of some of the suggested conditions for clarification and to ensure they meet the tests for conditions as specified in national planning guidance.

Conclusion

23. For the above reasons I have not found that the development would result in harm. Therefore, whilst I have no reason to doubt that the Council has a five year supply of housing land in place in accordance with national planning policy, having had regard to all other matters raised, I conclude that the appeal should be allowed.

Roy Merrett

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development to which the permission relates shall be carried out in accordance with the following approved plans and specifications: 1161_P01; 1161_P02 Rev A; 1161_P03 Rev A.
- 3) No development shall take place until details of the materials to be used in the construction of the external surfaces of the dwellings hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 4) The development shall not be occupied until cycle storage space has been provided in accordance with details to be previously agreed in writing by the local planning authority. The agreed cycle storage space shall be retained thereafter.
- 5) The development shall not be occupied until storage space for refuse and recycling materials has been provided in accordance with details to be previously agreed in writing by the local planning authority. The agreed storage space shall be retained thereafter.
- 6) No development shall take place until full details of the finished levels, above ordnance datum, of the ground floors of the proposed dwellings, in relation to existing ground levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.
- 7) No development shall commence until there shall have been submitted to and approved in writing by the local planning authority a scheme of hard and soft landscaping including a programme of implementation. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development. The scheme shall include the species and size of proposed new planting, hard landscaping materials and all boundary treatment.
- 8) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 9) The parking spaces and access road shall be provided as specified in the application before any part of the development is occupied and shall thereafter be retained.
- 10) No development shall commence until a Construction Management Plan has been submitted to and approved in writing by the local planning authority. The Plan shall provide for measures to control the emission of noise and dust from associated construction works including the routes of construction vehicles; loading and unloading of plant and materials; storage of plant and materials used in constructing the development; and

wheel washing facilities. The approved Management Plan shall be adhered to throughout the construction period for the development.

- 11) No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the local planning authority. If any risk of contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority prior to development being commenced. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to and approved in writing by the local planning authority following their completion.
- 12) No building hereby permitted shall be occupied until foul and surface water drainage works shall have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. Before any details are submitted to the local planning authority an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the assessment shall have been provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:
 - i. provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - ii. include a timetable for its implementation; and,
 - iii. provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.